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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,748	09/30/2004	Terumasa Ide	43890-692	4389
7590 McDermott Will & Emery 600 13th Street NW Washington, DC 20005-3096		12/26/2007	EXAMINER LEY, FRANCISCO M	
			ART UNIT 3746	PAPER NUMBER
			MAIL DATE 12/26/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/509,748

Applicant(s)

IDE ET AL.

Examiner

Francisco M. Ley

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The examiner acknowledges receipt of the amendments filed on 11/15/2007. The corrected drawing sheets have been reviewed and are accepted by the examiner. Claim 8 has been amended and claims 1-9 remain pending in the application and are addressed below.

### ***Claim Objections***

2. Claim 8 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim would under normal procedure not be further treated on the merits. However, since the previous action did in fact treat the claim, the present action will address claim 8 on the merits as well.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (U.S. Patent 5,733,106) in view of Outzen (U.S. Patent 4,759,693).

Claim 1: Lee discloses in Figure 4 a hermetic type compressor 50 having a hermetic container that accommodates stored oil, an electric motor unit 51, and a compressing unit. The compressing unit includes a cylinder 60 for storing a reciprocally moving piston 55, a plate 56 disposed at an end of the cylinder, a suction muffler 10 having a connection pipe 16 (Figure 5) communicated to a suction hole 561 (Figure 6) in the plate 56, and a cylinder head 30 disposed at the anti-cylinder side of the plate 56. The cylinder head 30 is formed with a discharge chamber 33 and a resonance chamber 31 (Figure 6) that accommodates a suction chamber 23, which communicates one side opened connection pipe 16. A flange 22 is disposed at an outer periphery of the connection pipe 16. Lee does not disclose that the cylinder head is provided with a groove at a position corresponding to the flange. However, Outzen does disclose the use of flanges and corresponding grooves for providing a seal in a suction muffler. Outzen discloses in Figures 1 and 2 a suction muffler 7 for a hermetic compressor, where the suction muffler has several flanges 17, 18, 22 and corresponding grooves 19, 20, and 23 that together form a seal.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the suction muffler disclosed by Lee to include a groove corresponding to a flange as disclosed by Outzen. The flange in conjunction with a groove *"forms a kind of labyrinth seal so that a leakage flow is practically suppressed"* (See Outzen Column 2, Lines 2-4). Therefore, it would have been obvious to include a flange and groove in order to provide a seal against leakage.

Claims 2 and 3: Lee discloses a generally U-shaped flange 22 having upper and lower surfaces and an outer periphery.

Claim 6: Lee shows in Figure 6 a resonance chamber 31 is nearly semi-circular in shape and arcuately extended to the discharge chamber 33. The resonance chamber 31 is not a semi-circle, but clearly may be seen as "nearly semi-circular".

Claim 7: Lee discloses in Figures 6 and 8 that the connection pipe of the suction muffler is provided with a ring-like seat (shown as 23 in Figure 6) formed so as to be disposed along an inner wall of the resonance chamber 31. The seat is not circular, but may be seen as "ring-like" as is the case with many types of enclosed areas.

Claim 8: Lee and Outzen do not specifically disclose that the resonance frequency of the suction muffler opening is coincident with the resonance frequency of a resonance muffler. However, it would have been obvious at the time the invention was made to disclose in either Lee or Outzen that the resonance frequencies are the same for the suction muffler opening and the resonance muffler. If tuning the resonance frequencies of the mufflers to be the same is desirable for noise reduction than this would be an obvious addition particularly to Outzen, who discloses a suction sound damper designed to eliminate resonance oscillations altogether. Outzen states, *"It is particularly favourable for the shells to be substantially rectangular...Such a suction sound damper can be accommodated in the capsule to save space and has an extraordinary strength which ensures that resonance oscillations of the housing do not occur at all or lie above the hearing threshold"* (Column 2, Lines 67-68; Column 3, Lines

1-6). Therefore, it would be obvious to tune the muffler in order to eliminate resonance altogether or minimize the noise resulting therefrom.

Claim 9: Lee and Outzen do not disclose that the resonance frequency of a plane portion of the hermetic container and the resonance frequency of the opening of the suction muffler are independent of each other. However, it would be obvious to make the resonance frequency of the housing different from that of the suction muffler in order not to amplify the noise created by one or the other. This is evidenced by Alfano et al. (U.S. Patent 5,487,648) who states, *"In the hermetic motor compressors for home refrigerators, beside the efficiency, a very important issue is the noise produced by the motor compressor and transmitted outside by the shell. It is known that for reducing the noise it is necessary to shape the shell in such a way that its resonance frequency is different from the frequency of the motor compressor."* Therefore, since the suction muffler together with the motor may form the "motor compressor", Alfano et al. makes it obvious to vary the frequencies of the hermetic container and the suction muffler.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (U.S. Patent 5,733,106) in view of Outzen (U.S. Patent 4,759,693) and further in view of Fenocchi et al. (U.S. Patent 6,464,480; hereinafter referred to as Fenocchi).

Claims 4, 5: Lee and Outzen do not disclose an oil hole disposed at the bottom of the suction muffler for allowing oil to lubricate the seal portion. However, Fenocchi discloses in Figure 3 a compressor having an oil spout 34 that redirects a portion of oil

entering an oil return passage 38 to supply lubrication between an outer seal 44 and a coupling 46.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lee and Outzen to include a hole in a suction muffler for redirecting oil to a seal similarly to the oil spout disclosed by Fenocchi. This would provide enhanced seal reliability, which is disclosed by Fenocchi who states, *"The oil spout provides a continual flow of lubrication to the outer seal and the coupling, preventing excessive wear of the outer seal and improving seal reliability"* (Column 1, Lines 54-56).

### ***Response to Arguments***

6. Applicant's arguments filed 11/15/2007 have been fully considered but they are not persuasive. The examiner respectfully submits that Lee does in fact teach the use of a resonance chamber. As recited in claim 1 submitted by applicant, the resonance chamber is merely a "chamber which communicates one side opened connection pipe". Therefore, the resonance chamber as defined in the claim is merely a chamber that communicates one side opened connection pipe, and is not restricted to any other structural limitations. Accordingly, the limitation is met by the resonance chamber 31 of Lee which communicates a suction chamber 23 and one side opened connection pipe 16.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that leakage occurs specifically at the interface of the resonance space and

connection pipe) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. In response to applicant's argument that the "resonance chamber" is used for reducing noise, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

9. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not



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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francisco M. Ley whose telephone number is (571) 270-1299. The examiner can normally be reached on Monday-Friday, 8:30am-6:00pm, Alt Fridays, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached at (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call (800) 786-9199 (IN USA OR CANADA) or (571) 272-1000.

FML  
December 13, 2007

*Devon Kramer* 12/20/07  
DEVON C. KRAMER  
PATENT EXAMINER